

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

July 13, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Price:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee continues to examine the opioid epidemic in the U.S. that is taking 91 American lives per day, according to the Centers for Disease Control and Prevention (CDC).¹ Recently, an increasing number of reports have revealed problems resulting from the dramatic surge of addiction treatment centers and “sober living homes” in a number of states. For example, multiple articles (see attached) highlight individuals known as “body brokers” or “patient brokers” who are treating men and women fighting opioid addiction as a commodity.² These brokers serve as intermediaries who profit from recruiting patients, arranging for their transportation and insurance coverage, and sending them to treatment centers in states with high numbers of treatment centers per capita, such as Florida and California.

For their role, patient brokers receive generous financial kickbacks from the centers. Brokers are predominantly paid in one of two ways, a per-head fee that can range from \$500 to \$5,000 for each patient who successfully enters a treatment center, or a monthly fee from a facility based on the broker meeting a quota of patients which can result in earnings as high as

¹ Centers for Disease Control and Prevention, Opioid Overdose, Understanding the Epidemic, available at: <https://www.cdc.gov/drugoverdose/epidemic/index.html/>.

² See Teri Sforza *et al.*, *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER, May 21, 2017, available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; David Armstrong and Evan Allen, *The addict brokers: Middlemen profit as desperate patients are 'treated like paychecks,'* STAT, May 28, 2017, available at <https://www.statnews.com/2017/05/28/addict-brokers-opioids/>; and Lisa Riordan Seville, *et al.* *Florida's Billion-Dollar Drug Treatment Industry Is Plagued by Overdoses, Fraud*, NBC NEWS, June 25, 2017, available at <http://www.nbcnews.com/feature/megyn-kelly/florida-s-billion-dollar-drug-treatment-industry-plagued-overdoses-fraud-n773376>.

tens of thousands of dollars.³ In addition to paying for travel, in some instances the broker helps patients obtain private insurance, and then pays the premiums on behalf of the patient until treatment benefits are exhausted after 60 to 90 days. Further, according to *Stat News*, private insurance carriers are often billed for "...higher, out-of-network rates that can easily total \$10,000 or more a week..."⁴ Ultimately, the insurance money runs dry and the individual with a substance use disorder is released to the street, a practice known as "curbing."⁵ Perhaps most disturbing is the allegation that some brokers follow these individuals with substance use disorder after their release and provide them with street drugs so the entire process can be repeated. This scheme creates an incentive for relapse rather than treatment and, ultimately, sobriety.

Many of these reports also note that the drug treatment centers themselves lack oversight, transparency, and accountability. As these facilities are largely regulated at the state level, oversight and enforcement of standards appears to vary greatly. According to *Stat News*, patient brokers send vulnerable individuals to centers that "often provide few services and are sometimes run by disreputable operators with no training or expertise in drug treatment."⁶ For example, individuals in California can open sober living homes with minimal qualifications. According to the *Orange County Register*, "...some centers are run by ex-cons who earned certificates in rehab center management from prison schools, others by doctors who have had their licenses in the crosshairs of the Medical Board of California."⁷ The potential impacts of this lack of oversight and accountability are striking — "...on average, somebody dies about every two weeks while being cared for in a licensed rehab center in California."⁸ Yet, the state employs only 16 inspectors to monitor nearly 2,000 rehab centers in California.⁹ These inspectors all work in an office in Sacramento, and take, on average, 90 days to three years to complete an investigation.¹⁰

These broker schemes are under investigation at the federal and state levels. A state attorney in Palm Beach County, Florida has created a task force to investigate the abuses within the treatment industry given that Palm Beach has become a hot bed for drug treatment centers.¹¹ Additionally, in an effort to deter patient brokering, Florida adopted a law last year to make paying for patients a third-degree felony punishable by up to five years in prison.¹² The Massachusetts Attorney General's office is examining the legality of the arrangements if

³ David Armstrong and Evan Allen, *The addict brokers: Middlemen profit as desperate patients are 'treated like paychecks'*, STAT, May 28, 2017, available at <https://www.statnews.com/2017/05/28/addict-brokers-opioids/>.

⁴ *Id.*

⁵ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER, May 21, 2017, available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

⁶ Stat news

⁷ OC Register article, May 21, 2017.

⁸ Sforza, *supra* note 5.

⁹ *Id.*

¹⁰ OC Register, *supra* note 7.

¹¹ Armstrong and Allen, *supra* note 3.

¹² Teri Sforza, et al., *Rehab patient brokering is rampant, but it's hard to stop, industry says*, ORANGE COUNTY REGISTER, May 30, 2017, available at <http://www.ocregister.com/2017/05/30/rehab-riviera-in-addiction-industry-even-simple-fixes-are-hard/>.

facilities are in fact paying brokers to bring them patients.¹³ The Drug Enforcement Administration (DEA) and Federal Bureau of Investigation (FBI) are also investigating participants in this industry.¹⁴

These practices are harming patients and their families, and taking advantage of laws intended to increase access to treatment for individuals with substance use disorder who are desperately in need of help. The business of drug treatment centers requires greater scrutiny, and those battling addiction deserve a safe and dependable environment when seeking treatment.

In order to inform the Committee's efforts, we request that the Department provide a briefing on its efforts to identify and reduce these practices. In addition, please provide the following information by July 27, 2017:

1. Has HHS or any of its agencies examined the problem of patient brokers? If so, please discuss findings or observations.
 - a. Has HHS or any of its agencies taken any steps to combat patient brokers and the treatment centers that are utilizing patient brokers? If so, please describe this work.
 - b. Similarly, has HHS or any of its agencies collaborated with other federal or state partners? If so, please elaborate.
2. How do states regulate drug treatment centers and sober living homes? What licensure, standards, requirements are generally applicable? How often are they inspected?
 - a. Has HHS or any of its agencies examined outcomes of drug treatment centers? Are there standards or metrics used to measure the effectiveness of drug treatment centers across the country? If so, please list them.
 - b. Further, are drug treatment centers required to report their compliance with these standards? Please list what they are required to report, who they report it to, and how frequently they report this information.
 - c. Are drug treatment centers required to report overdoses or overdose deaths of current or former patients or staff of their facilities? If so, who do they report this to?
3. What is the role of the federal government in oversight of drug treatment centers?

¹³ Armstrong and Allen, *supra* note 3.

¹⁴ OC Register, May 21, 2017; Lawrence Mower, *Boynton Beach addiction treatment center's CEO, operator arrested*, MY PALM BEACH POST, October 25, 2016, available at <http://www.mypalmbeachpost.com/news/boynton-beach-addiction-treatment-center-ceo-operator-arrested/LIVfJDqWo4GXsyjEDTA4TK/>.

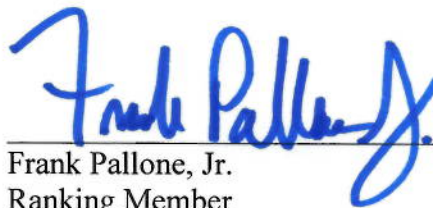
- a. Are there databases within HHS, HHS agencies, or other entities that would provide useful data about drug treatment centers?
4. Has HHS or any of its agencies had any communications with insurance carriers selling qualified health plans (QHPs) to identify outliers in claims with trends that reflect improper utilization of drug treatment centers and sober living homes?
 - a. Are insurance carriers required to report any suspicious trends or activity regarding drug treatment facilities or sober living homes? If yes, please provide a description of the process by which these reports are made, and the role HHS plays, if any, in investigating these reports.
5. Is HHS or any of its agencies able to identify a trend in billing for drug treatment services based on geographic location?
 - a. If so, please name the states with the highest spending when compared to prevalence of individuals with substance use disorder.
6. Are there adequate anti-kickback protections that would make the aforementioned brokering a violation of federal law?
 - a. If so, please cite the U.S. Code section that can be enforced.
7. What steps can HHS or any of its agencies take to better protect individuals seeking treatment and eliminate the fraud and abuse that is occurring within the drug treatment industry?

If you have any questions, please contact Brittany Havens or Adam Buckalew of the Majority staff at (202) 225-2927 or Kevin McAloon or Una Lee of the Minority staff at (202) 225-3641.

Sincerely,



Greg Walden
Chairman
Committee on Energy and Commerce



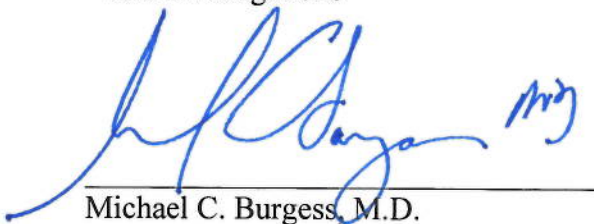
Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



Tim Murphy
Chairman
Subcommittee on Oversight
and Investigations



Diana DeGette
Ranking Member
Subcommittee on Oversight
and Investigations



Michael C. Burgess, M.D.
Chairman
Subcommittee on Health



Gene Green
Ranking Member
Subcommittee on Health

Attachment